

THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 3968 of 2020

O R D E R:

This Writ Petition is filed to declare the order passed by the 3rd respondent – Vice-Chairman, Kakatiya Urban Development Authority, Warangal *vide* proceedings Roc. No. C1/316/2019/46, dated 03.02.2020 cancelling the proceedings dated 05.06.2018 issued in favour of the petitioner regularising the unapproved plot in Survey No. 420, in an extent of 722 square yards situated at Palevelpula Village, Hanamkonda Mandal, Warangal District based on the complaint filed by the 7th respondent dated 15.12.2018 and 13.02.2019 without causing any proper enquiry, after receipt of the survey report submitted by the 6th respondent and without affording an opportunity of personal hearing by mentioning the different allegations in the impugned order which were not mentioned in the show cause notice dated 19.08.2019 issued to the petitioner, as arbitrary and violation of the principles of natural justice.

Learned counsel for the petitioner Sri Ravi Kiran Rao submits that the impugned order is liable to be set aside for more than one reason namely; 1) that the show cause notice dated 19.08.2019 itself is defective as in the said notice, the reason for issuance of such a notice was the representation / complaint of the 7th respondent, dated 13.02.2019, wherein the order in I.A.No. 69 of 2019 in O.S.No. 42 of 2018 on the file of the Court of the Principal Senior Civil Judge at Warangal was mentioned, whereas the regularisation proceedings were granted in favour of the petitioner on 05.06.2018 taking into

consideration the application made by the petitioner in 2015 in terms of G.O.Ms. No. 151. In other words, neither on the date of the LRS Application nor on the date of the 7th respondent's complaint dated 13.02.2019 or on the date of the regularisation granted in favour of the petitioner on 05.06.2018, the official respondents were not in the know of the alleged suit. He also submits that the suit filed is in relation to the different property and not the property for which regularization has been granted in favour of the petitioner; 2) there is no consideration of the explanation submitted by the petitioner on 26.08.2019 except stating that it is not satisfactory; and the impugned order was made post-haste merely on account of the fact that there was a direction in Writ Petition No.24183 of 2019 to dispose of the objections raised and a contempt case was filed for non-compliance of the order dated 05.11.2019 in Writ Petition No. 24183 of 2019. The sum and substance of the argument of the learned counsel for the petitioner is that there is total non-application of mind on the part of the respondent authorities in making the impugned order.

On the other hand, learned counsel for the 7th respondent Sri Siddarth Sharma opposes the Writ Petition and submits that the impuned order does not call for any interference. The learned Standing Counsel for the 3rd respondent Sri Ajay Kumar also supports the order.

Having regard to the respective submissions, this Court is in agreement with the argument of the learned counsel for the petitioner, as, as on the date of the complaint dated 13.02.2019 by the 7th respondent, there was no Application pending before

the 3rd respondent authorities. The Application dated 21.12.2015 of the petitioner made in terms of G.O.Ms.No.151 was disposed of on 05.06.2018 itself. In those circumstances, the question of the petitioner suppressing any facts about the suit which was filed in 2018 does not arise. The said simple reason itself is sufficient for the impugned order to be set aside. Further, the impugned order lacks application of mind of adverting to the detailed explanation submitted by the petitioner on 26.08.2019. Even, on that ground, the order suffers from non-application of mind.

The impugned order is accordingly, set aside. As the show cause notice itself is defective and further considering the fact that the said show cause notice emanated on account of the complaint dated 13.02.2019, in the interests of justice, liberty is given to the 3rd respondent to issue fresh show cause notice setting out, in detail, why and in what circumstances, regularization granted in favour of the petitioner is liable to be cancelled, duly giving an opportunity to the petitioner to meet the allegations. Likewise, the 7th respondent also shall be entitled to place the material, if any justifying why the regularisation granted in favour of the petitioner is liable to be cancelled. Thereafter, the 3rd respondent shall consider all the material and pass appropriate orders after giving opportunity of hearing to the petitioner, if warrants. The entire exercise be completed within 12 weeks from the date of receipt of a copy of this order.

Subject to the above, the Writ Petition is allowed. No costs.

Miscellaneous petitions, if any pending, shall stand closed.

CHALLA KODANDA RAM, J

02nd June 2020

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THE HON'BLE SRI JUSTICE CHALLA KONDANDA RAM



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